

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**JOSE GUZMAN**

**Case No.: 1:16-cv-03499-GBD-RLE**

**Plaintiff,**

**-against-**

**MEL S. HARRIS & ASSOCIATES, LLC  
LR CREDIT 13, LLC  
SAMSERV, INC  
JOHN ANDINO  
WILLIAM MLOTOK**

**Defendants.**

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**PLAINTIFF'S RULE 56.1 COUNTERSTATEMENT OF FACTS IN OPPOSITION TO  
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT [DE 180, 185]**

1. The joint venture agreement that created LR Credit, LLC (of which LRC is a wholly owned subsidiary), provides that certain notices be sent via “certified mail, return receipt requested.” *See Jul. 19 Keshavarz Decl.* [Exhibit G, Joint Liability agreement, § 16.01].
2. LR Credit, LLC is a Delaware limited liability company. *See Jul. 19 Keshavarz Decl.* [Exhibit G, Joint Liability agreement, Annex 2].
3. LR Credit, LLC maintains a registered office in the state of Delaware. *See Jul. 19 Keshavarz Decl.* [Exhibit G, Joint Liability agreement, Annex 2].
4. The articles of organization of LR Credit 13, LLC provide that the “Secretary of State of the State of New York is designated as the agent of the Company upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any such process served upon him is . . .” *See Jul. 19 Keshavarz Decl.* [Exhibit A, Articles of Organization of LR Credit 13, LLC, ¶ 4].
5. On November 12, 2003, LR Credit entered into a commission agreement with MetCap Securities, LLC, whereby MetCap Securities, LLC would be entitled to a commission on all credit portfolios purchased by LR Credit, LLC or its subsidiaries (including LR Credit 13, LLC). The agreement provides that the commissions are to be made by “wire transfer to an account designated by MetCap.” *See Aug. 9 Keshavarz Decl.* [Exhibit W, MetCap Commission Agreement].
6. The portfolios of debts that LRC owns are purchased from out of state buyers. *See Aug. 9 Keshavarz Decl.* [Exhibit X, Amendment No. 2 to Joint Venture agreement, ¶ B.(i) (referring to “Sherman Portfolio II,” purchased from “Sherman Acquisition LLC”; Exhibit Y, October 5, 2007 LR Credit letter (referencing Sherman portfolio)].

7. LRC was formed for the purpose of buying defaulted consumer debt, including debt originating with major banks such as Chase Bank, Banco Popular, and First USA Bank. *See Jul. 19 Keshavarz Decl.* [Exhibit G, Joint Liability agreement; Exhibit TT, default application with affidavit of merit; Exhibit OO, summons and complaint in Guzman collection suit; Exhibit YY, January 30, 2017 letter from LRC, DE 112 (arguing, for the first time, that the putative debt alleged to be owed by Plaintiff is owed to Banco Popular); Exhibit H, LRC’s memorandum of law in opposition to Plaintiff’s motion to amend, DE 168 (arguing, for the first time, that the putative debt alleged to be owed by Plaintiff is owed to Chase Bank)]
8. William Mlotok has been the president of Samserv since its inception in 1995. *See Jul. 19 Keshavarz Decl.* [Exhibit E, Mlotok Trns. 23:15-24].
9. Samserv has provided affidavits of service in at least 100,000 collection lawsuits on behalf of MSH. *See Jul. 19 Keshavarz Decl.* [Exhibit E, Mlotok Trns. 137:08-14].
10. Samserv process servers were paid \$6-\$7 for successful, non-rush service. *See Jul. 19 Keshavarz Decl.* [Exhibit E, Mlotok Trns. 150:16-24]
11. Most of the service jobs from MSH were non-rush jobs. *See Jul. 19 Keshavarz Decl.* [Exhibit E, Mlotok Trns. 148:19 to 149:2].
12. Samserv process servers received no employment benefits, were not compensated for costs of service, and had to pay their own social security taxes. *See Rule 56.1 Statement of Defendants Samserv, Inc. and William Mlotok (“Samserv 56.1 Statement”), ¶ 15.*
13. In the month leading up to the putative service on Mr. Guzman, the majority of the time Andino served process he served via “nail and mail” service. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].

14. Thus, most of the times Andino served process in the month prior to the putative service on Mr. Guzman, Andino returned to the service location three separate times. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
15. Accordingly, for many service attempts, Andino was paid only \$2-\$2.50 before costs and taxes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
16. Samserv produced a spreadsheet in this action showing 249 summons and complaints assigned to Andino for service between 6/1/2007 and 7/9/2007. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database]; *Aug. 9 Keshavarz Decl.*, ¶ 28.
17. According to the spreadsheet, Andino was able to effectuate service for each of the 249 assignments. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database]; *Aug. 9 Keshavarz Decl.*, ¶ 28
18. For 227 of the 249 assignments (91% of assignments) Andino alleged he went *three* times to the address of the consumer, which is required for “nail and mail” service. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database]; *Aug. 9 Keshavarz Decl.*, ¶ 29
19. Samserv’s records show that Andino went to 703 addresses in 17 days (including the 4<sup>th</sup> of July weekend) and was paid a gross amount of \$1,743. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database]; *Aug. 9 Keshavarz Decl.*, ¶ 29
20. This amounts to gross pay of \$2.46 per trip, not including costs for gas, parking, parking tickets, or additional taxes taken as a result of being paid as a 1099 independent contractor. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server

**Database]; Aug. 9 Keshavarz Decl., ¶ 29**

21. On June 6, 2007, Andino claims to have made two service attempts at two separate locations, on the 3<sup>rd</sup> and 7<sup>th</sup> floors, at 6:00 AM. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database]; Aug. 9 Keshavarz Decl., ¶ 30*
22. Those jobs were assigned to Andino that same day, June 6, 2007, allegedly prior to the when service was effected at 6:00 AM. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database]; Aug. 9 Keshavarz Decl., ¶ 30*
23. When Samserv process servers are given assignments, they must go to Samserv's office to collect the documents to be served. *See Jul. 19 Keshavarz Decl. [Exhibit U, Lamb Trns. 44:08-19].*
24. Thus, according to the spreadsheet, on June 6, 2007, Andino travelled to the Samserv office (at that time located in downtown Brooklyn), collected his assignments, travelled to the Bronx, and served process twice, all by 6:00 AM. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database].*
25. Andino allegedly served process for Samserv throughout the day on June 6, 2017, completing his last service at 10:24 PM on 6/6/2007. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database].*
26. After a Samserv process server completes service, the process server goes before Mlotok and signs the affidavit of service, under oath, in batches. *See Jul. 19 Keshavarz Decl. [Exhibit U, Lamb Trns. 60:03-08; 64:05-11].*
27. Typically, the affidavits are then notarized by William Mlotok. *See Jul. 19 Keshavarz Decl. [Exhibit U, Lamb Trns. 60:03-08; 68:11-13; Exhibit E, Mlotok Trns. 85:14-86:07].*

28. The Affidavit of Service alleges that Andino first attempted to serve process on Guzman at 1304 Boston Road on July 6, 2007 at 9:00 AM. *See Jul. 19 Keshavarz Decl.* **[Exhibit AA, Affidavit of Service in Guzman Collection Suit].**
29. Also on July 6, 2007, Andino claims to have attempted service at 1020 Tiffany St., Apt. 5, Bronx, NY at 9:22 AM, and at 5 W Farms Square Plaza, Apt. 6B, Bronx NY at 9:32 AM. Thus, Andino claims to have travelled from 1020 Tiffany St., Apt. 5, Bronx NY to 5 W Farms Square Plaza, Apt. 6B, Bronx, NY, and attempted service within ten minutes. *See Jul. 19 Keshavarz Decl.* **[Exhibit GGG, Excerpt from Samserv Process Server Database].**
30. Google Maps estimates that it takes a minimum of eleven minutes to travel by car (the fastest available travel method) by car from 1020 Tiffany St., Apt. 5, Bronx NY to 5 W Farms Square Plaza, Apt. 6B, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* **[Exhibit A, GM 1020 Tiffany St to 5 W Farms Square Plaza].**
31. Also on July 6, 2007, Andino claims to have attempted service at 1815 Monroe Ave, Apt. 5F, Bronx, NY at 1:15 PM, and at 3970 Laconia Ave, Bronx, NY at 1:22 PM. Thus, Andino claims to have travelled from 1815 Monroe Ave, Apt. 5F, Bronx, NY to 3970 Laconia Ave, Bronx, NY in seven minutes. *See Jul. 19 Keshavarz Decl.* **[Exhibit GGG, Excerpt from Samserv Process Server Database].**
32. Google Maps estimates that it takes a minimum of twenty-three minutes to travel by car (the fastest available travel method) by car from 1815 Monroe Ave, Apt. 5F, Bronx, NY to 3970 Laconia Ave, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* **[Exhibit B, 1815 Monroe Ave to 3970 Laconia Ave].**

33. Also on July 6, 2007, Andino claims to have attempted service at 3970 Laconia Ave, Bronx, NY at 1:22 PM, and at 2761 Decatur Ave, Apt. 19, Bronx, NY at 1:30 PM. Thus, Andino claims to have travelled from 3970 Laconia Ave, Bronx, NY to 2761 Decatur Ave, Apt. 19, Bronx, NY in eight minutes. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database].*
34. Google Maps estimates that it takes a minimum of seventeen minutes to travel by car (the fastest available travel method) from 3970 Laconia Ave, Bronx, NY to 2761 Decatur Ave, Apt. 19, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl. [Exhibit C, 3970 Laconia Ave to 2761 Decatur Ave].*
35. Also on July 6, 2007, Andino claims to have attempted service at 2966 Briggs Ave, Apt. 1A, Bronx NY at 1:45 PM, and at 4064 Paulding Ave, Apt. 2, Bronx, NY at 1:50 PM. Thus, Andino claims to have travelled from 2966 Briggs Ave, Apt. 1A, Bronx NY to 4064 Paulding Ave, Apt. 2, Bronx, NY in five minutes. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database].*
36. Google Maps estimates that it takes a minimum of fifteen minutes to travel by car (the fastest available travel method) from 2966 Briggs Ave, Apt. 1A, Bronx NY to 4064 Paulding Ave, Apt. 2, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl. [Exhibit D, 2966 Briggs Ave to 4064 Paulding Ave].*
37. Also on July 6, 2007, Andino claims to have attempted service at 2387 Creston Ave, Apt. 5A, Bronx, NY at 2:10 PM, and at 3560 Olinville Ave, BSMT 2, Bronx, NY at 2:20 PM. Thus, Andino claims to have travelled from 2387 Creston Ave, Apt. 5A, Bronx, NY to 3560

Olinville Ave, BSMT 2, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].

38. Google Maps estimates that it takes a minimum of sixteen minutes to travel by car (the fastest available travel method) from 2387 Creston Ave, Apt. 5A, Bronx, NY to 3560 Olinville Ave, BSMT 2, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit E, 2387 Creston Ave to 3560 Olinville Ave].
39. Also on July 6, 2007, Andino claims to have attempted service at 4041 Paulding Ave, Bronx, NY at 2:50 PM, and at 535 W. 232 St., Apt. 3, Bronx, NY at 3:00 PM. Thus, Andino claims to have travelled from 4041 Paulding Ave, Bronx, NY to 535 W. 232 St., Apt. 3, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
40. Google Maps estimates that it takes a minimum of twenty minutes to travel by car (the fastest available travel method) from 4041 Paulding Ave, Bronx, NY to 535 W. 232 St., Apt. 3, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit F, 4041 Paulding Ave to 535 W 232nd St].
41. The Affidavit of Service alleges further that, on July 7, 2007, at 3:12 PM, Andino again attempted to serve process on Guzman. *See Jul. 19 Keshavarz Decl.* [Exhibit AA, Affidavit of Service in Guzman Collection Suit].
42. Also on July 7, 2007, Andino claims to have attempted service at 2243 Ryer Ave, Apt. 11, Bronx, NY at 6:00 AM, and at 4064 Paulding Ave, Apt. 2, Bronx, NY at 6:15 AM. Thus, Andino claims to have travelled from 2243 Ryer Ave, Apt. 11, Bronx, NY to 4064 Paulding



Ave, Apt. 2, Bronx, NY in fifteen minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].

43. Google Maps estimates that it takes a minimum of twenty-one minutes to travel by car (the fastest available travel method) from 2243 Ryer Ave, Apt. 11, Bronx, NY to 4064 Paulding Ave, Apt. 2, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit G, 2243 Ryer Ave to 4064 Paulding Ave].
44. Also on July 7, 2007, Andino claims to have attempted service at 4064 Paulding Ave, Apt. 2, Bronx, NY at 6:15 AM, and at 2420 Morris Ave, Apt. 4B, Bronx, NY at 6:30 AM. Thus, Andino claims to have travelled from 4064 Paulding Ave, Apt. 2, Bronx, NY to 2420 Morris Ave, Apt. 4B, Bronx, NY in fifteen minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
45. Google Maps estimates that it takes a minimum of twenty-three minutes to travel by car (the fastest available travel method) from 4064 Paulding Ave, Apt. 2, Bronx, NY to 2420 Morris Ave, Apt. 4B, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit H, 4064 Paulding Ave to 2420 Morris Ave].
46. Also on July 7, 2007, Andino claims to have attempted service at 2387 Creston Ave, Apt. 5A, Bronx, NY at 7:15 AM, and at 3560 Olinville Ave, BSMT 2, Bronx, NY at 7:30 AM. Thus, Andino claims to have travelled from 2387 Creston Ave, Apt. 5A, Bronx, NY to 3560 Olinville Ave, BSMT 2, Bronx, NY in fifteen minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].

47. Google Maps estimates that it takes a minimum of sixteen minutes to travel by car (the fastest available travel method) from 2387 Creston Ave, Apt. 5A, Bronx, NY to 3560 Olinville Ave, BSMT 2, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. EX GM I. *See Aug. 9 Keshavarz Decl. [Exhibit I, 2387 Creston Ave to 3560 Olinville Ave].*
48. Also on July 7, 2007, Andino claims to have attempted service at 3439 Knox Place, Apt. 2D, Bronx, NY at 7:45 AM, and at 4041 Paulding Ave, Bronx, NY at 7:55 AM. Thus, Andino claims to have travelled from 3439 Knox Place, Apt. 2D, Bronx, NY to 4041 Paulding Ave, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database].*
49. Google Maps estimates that it takes a minimum of fourteen minutes to travel by car (the fastest available travel method) from 3439 Knox Place, Apt. 2D, Bronx, NY to 4041 Paulding Ave, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl. [Exhibit J, 3439 Knox Pl to 4041 Paulding Ave].*
50. Also on July 7, 2007, Andino claims to have attempted service at 3970 Laconia Ave, Bronx, NY at 8:10 AM, and at 2840 Bailey Ave, Apt. D20, Bronx, NY at 8:25 AM. Thus, Andino claims to have travelled from 3970 Laconia Ave, Bronx, NY to 2840 Bailey Ave, Apt. D20, Bronx, NY in fifteen minutes. *See Jul. 19 Keshavarz Decl. [Exhibit GGG, Excerpt from Samserv Process Server Database].*
51. Google Maps estimates that it takes a minimum of eighteen minutes to travel by car (the fastest available travel method) from 3970 Laconia Ave, Bronx, NY to 2840 Bailey Ave, Apt. D20, Bronx, NY. This estimate does not account for parking time, time spent attempting

service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit K, 3970 Laconia Ave to 2840 Bailey Ave].

52. Also on July 7, 2007, Andino claims to have attempted service at 848 E. 213<sup>th</sup> St, Apt 2, Bronx, NY at 10:50 AM, and at 1815 Monroe Ave, Apt 5F, Bronx, NY at 11:00 AM. Thus, Andino claims to have travelled from 848 E. 213<sup>th</sup> St, Apt 2, Bronx, NY to 1815 Monroe Ave, Apt 5F, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
53. Google Maps estimates that it takes a minimum of twenty-three minutes to travel by car (the fastest available travel method) from 848 E. 213<sup>th</sup> St, Apt 2, Bronx, NY to 1815 Monroe Ave, Apt 5F, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit L, 848 E 213th St to 1815 Monroe Ave].
54. Also on July 7, 2007, Andino claims to have attempted service at 751 E. 161<sup>st</sup> St., Apt. 15F, Bronx, NY at 2:10 PM and at 1226 Sherman Ave, Apt. 37, Bronx, NY at 2:21 PM. Thus, Andino claims to have travelled from 751 E. 161<sup>st</sup> St., Apt. 15F, Bronx, NY to 1226 Sherman Ave, Apt. 37, Bronx, NY in eleven minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
55. Google Maps estimates that it takes a minimum of fourteen minutes to travel by car (the fastest available travel method) from 751 E. 161<sup>st</sup> St., Apt. 15F, Bronx, NY to 1226 Sherman Ave, Apt. 37, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit M, 751 E 161st St to 1226 Sherman Ave].

56. The Affidavit of Service alleges that Andino made his third attempt to serve Guzman at 1304 Boston Road on July 9, 2007 at 8:59 AM. *See Jul. 19 Keshavarz Decl.* [Exhibit AA, Affidavit of Service in Guzman Collection Suit].
57. Also on July 9, 2007, Andino claims to have attempted service at 751 E. 161<sup>st</sup> St., Apt. 15F, Bronx, NY at 8:00 AM, and at 1226 Sherman Ave, Apt. 37, Bronx, NY at 8:12 AM. Thus, Andino claims to have travelled from 751 E. 161<sup>st</sup> St., Apt. 15F, Bronx, NY to 1226 Sherman Ave, Apt. 37, Bronx, NY in twelve minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
58. Google Maps estimates that it takes a minimum of fourteen minutes to travel by car (the fastest available travel method) from 751 E. 161<sup>st</sup> St., Apt. 15F, Bronx, NY to 1226 Sherman Ave, Apt. 37, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit M, 751 E 161st St to 1226 Sherman Ave].
59. Also on July 9, 2007, Andino claims to have attempted service at 848 E. 213 St, Apt. 2, Bronx, NY at 9:30 PM, and at 3574 Dekalb Ave, Apt. 4H, Bronx, NY at 9:40 PM. Thus, Andino claims to have travelled from 848 E. 213 St, Apt. 2, Bronx, NY to 3574 Dekalb Ave, Apt. 4H, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
60. Google Maps estimates that it takes a minimum of twelve minutes to travel by car (the fastest available travel method) from 848 E. 213 St, Apt. 2, Bronx, NY to 3574 Dekalb Ave, Apt. 4H, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit N, 848 E 213th St to 3574 Dekalb Ave].

61. Also on July 9, 2007, Andino claims to have attempted service at 3574 Dekalb Ave, Apt. 4H, Bronx, NY at 9:40 PM, and at 4064 Paulding Ave, Apt. 2, Bronx, NY at 9:50 PM. Thus, Andino claims to have travelled from 3574 Dekalb Ave, Apt. 4H, Bronx, NY to 4064 Paulding Ave, Apt. 2, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* [**Exhibit GGG, Excerpt from Samserv Process Server Database**].
62. Google Maps estimates that it takes a minimum of twelve minutes to travel by car (the fastest available travel method) from 3574 Dekalb Ave, Apt. 4H, Bronx, NY to 4064 Paulding Ave, Apt. 2, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [**Exhibit O, 3574 Dekalb Ave to 4064 Paulding Ave**].
63. Also on July 9, 2007, Andino claims to have attempted service at 4064 Paulding Ave, Apt. 2, Bronx, NY at 9:50 PM, and at 2243 Ryer Ave, Apt. 11, Bronx, NY at 10:00 PM. Thus, Andino claims to have travelled from 4064 Paulding Ave, Apt. 2, Bronx, NY to 2243 Ryer Ave, Apt. 11, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* [**Exhibit GGG, Excerpt from Samserv Process Server Database**].
64. Google Maps estimates that it takes a minimum of 24 minutes to travel by car (the fastest available travel method) from 4064 Paulding Ave, Apt. 2, Bronx, NY to 2243 Ryer Ave, Apt. 11, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [**Exhibit P, 4064 Paulding Ave to 2243 Ryer Ave**].
65. Also on July 9, 2007, Andino claims to have attempted service at 2243 Ryer Ave, Apt. 11, Bronx, NY at 10:00 PM, and at 3439 Knox Pl., Apt. 2D, Bronx, NY at 10:10 PM. Thus, Andino claims to have travelled from 2243 Ryer Ave, Apt. 11, Bronx, NY to 3439 Knox Pl.,

Apt. 2D, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* **[Exhibit GGG, Excerpt from Samserv Process Server Database].**

66. Google Maps estimates that it takes a minimum of thirteen minutes to travel by car (the fastest available travel method) from 2243 Ryer Ave, Apt. 11, Bronx, NY to 3439 Knox Pl., Apt. 2D, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* **[Exhibit Q, 2243 Ryer Ave to 3439 Knox Pl].**

67. Also on July 9, 2007, Andino claims to have attempted service at 3439 Knox Pl., Apt. 2D, Bronx, NY at 10:10 PM, and at 1815 Monroe Ave, Apt. 5F, Bronx, NY at 10:20 PM. Thus, Andino claims to have travelled from 3439 Knox Pl., Apt. 2D, Bronx, NY to 1815 Monroe Ave, Apt. 5F, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* **[Exhibit GGG, Excerpt from Samserv Process Server Database].**

68. Google Maps estimates that it takes a minimum of seventeen minutes to travel by car (the fastest available travel method) from 3439 Knox Pl., Apt. 2D, Bronx, NY to 1815 Monroe Ave, Apt. 5F, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* **[Exhibit R, 3439 Knox Pl to 1815 Monroe Ave].**

69. Also on July 9, 2007, Andino claims to have attempted service at 1815 Monroe Ave, Apt. 5F, Bronx, NY at 10:20 PM, and at 2761 Decatur Ave, Apt. 1B, Bronx, NY at 10:30 PM. Thus, Andino claims to have travelled from 1815 Monroe Ave, Apt. 5F, Bronx, NY to 2761 Decatur Ave, Apt. 1B, Bronx, NY in ten minutes. *See Jul. 19 Keshavarz Decl.* **[Exhibit GGG, Excerpt from Samserv Process Server Database].**

70. Google Maps estimates that it takes a minimum of twelve minutes to travel by car (the fastest available travel method) from 1815 Monroe Ave, Apt. 5F, Bronx, NY to 2761 Decatur Ave, Apt. 1B, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit S, 1815 Monroe Ave to 2761 Decatur Ave].
71. Also on July 9, 2007, Andino claims to have attempted service at 2966 Briggs Ave, Apt. 1A, Bronx, NY at 10:40 PM, and at 2420 Morris Ave, Apt. 4B, Bronx, NY at 10:48 PM. Thus, Andino claims to have travelled from 2966 Briggs Ave, Apt. 1A, Bronx, NY to 2420 Morris Ave, Apt. 4B, Bronx, NY in eight minutes. *See Jul. 19 Keshavarz Decl.* [Exhibit GGG, Excerpt from Samserv Process Server Database].
72. Google Maps estimates that it takes a minimum of nine minutes to travel by car (the fastest available travel method) from 2966 Briggs Ave, Apt. 1A, Bronx, NY to 2420 Morris Ave, Apt. 4B, Bronx, NY. This estimate does not account for parking time, time spent attempting service, or time spent logging service attempts. *See Aug. 9 Keshavarz Decl.* [Exhibit T-2966 Briggs Ave to 2420 Morris Ave].
73. LRC admits that it has no policies or procedures in place to prevent violations of the FDCPA. *See Jul. 19 Keshavarz Decl.* [Exhibit B, Nittoli Trns. 109:05-08].
74. Jose Guzman suffered emotional distress as a result of LRC and Samserv's misconduct. *See Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 14:21-15:02; 39:13-21; 123:07-20; 125:10-14; 156:13-157:16; 164:21-165:10; 166:09-18; 167:24-168:18; 173:22-175:17; 176:15-177:05; 178:06-18; 179:20-24; Exhibit RR, L. Guzman Trns. 15:19-16:07; 17:08-23; 18:05-16; 20:02-11; 21:13-23; 22:08-16; 99:18-101:02; 104:03-105:06; 108:19-109:16; 110:02-112:16; 115:15-118:11; 119:23-120:03; 124:04-23; 128:17-129:22].

75. Given LRC's history of defrauding Mr. Guzman and other consumers, Mr. Guzman fears that Defendants will continue to attempt to collect the putative debt from him. *Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 166:09-18; 167:24-168:18; 178:06-18; 179:20-24 (“That’s the frustration I have. I’m going to be remembering these names for the rest of my life.”); Exhibit RR, L. Guzman Trns. 20:02-11; 22:08-16; 99:18-101:02; 124:04-23: 128:17-129:22 (“since we’re not attorneys and we see that people with a license to practice can commit these frauds then what’s left for us. They can lie again, they can create documents. We’re completely concerned . . . So if they can create these lies, why can’t they continue fabricating lies and continue to harm us.”)].
76. Mr. Guzman felt that LRC had treated him “like garbage.” *Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 156:13-157:16; 173:22-175:17].
77. Mr. Guzman was humiliated when a lawyer for LRC treated Mr. Guzman disrespectfully and made fun of Mr. Guzman for his inability to speak English. *Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 156:13-157:16; 173:22-175:17].
78. This compounded the emotional distress Mr. Guzman was already experiencing as a result of Defendants’ misconduct. *Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 156:13-157:16].
79. When he first learned about the lawsuit in July, 2015, Mr. Guzman was employed as a truck driver at Siena Marble. *Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 07:08-13].
80. After he learned about the collection lawsuit, Mr. Guzman became so distressed that he feared he would get in an accident while driving the truck for work. Mr. Guzman therefore quit his job at Siena Marble in the spring of 2016. *Jul. 19 Keshavarz Decl.* [Exhibit PP, J.



**Guzman Trns. 14:21-15:02; 123:07-20; 125:10-14; Exhibit RR, L. Guzman Trns. 15:19-120:07; 108:19-109:16; 110:02-25; 111:16-112:16].**

81. To this day, the stress and anger causes Mr. Guzman to have trouble sleeping. *Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 148:13-23; 164:21-165:10; 167:24-168:18; Exhibit RR, L. Guzman Trns. 99:18-101:03; 104:03-105:06; 111:16-112:16].

82. Mr. Guzman was frustrated and angry because he was never served with the summons and complaint in the collection lawsuit, and he was therefore denied the opportunity to defend himself in court. *See Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 39:13-21; 148:13-23; 176:15-177:05; 178:06-18 (“I would have had the opportunity to defend myself on that date, and I would have done what the judge told me to do, but I couldn’t defend myself on that day. That’s what hurt me.”); Exhibit RR, L. Guzman Trns. 100:16-101:02; 104:03-105:06; 108:19-109:16].

83. Mr. Guzman was distressed because he did not recognize the names of the putative creditor or the putative original creditor in the collection lawsuit. *See Jul. 19 Keshavarz Decl.* [Exhibit PP, J. Guzman Trns. 148:13-23; 176:15-177:05; Exhibit RR, L. Guzman Trns. 17:08-23; 18:05-16; 22:08-16; 108:19-109:16; 110:02-12; 117:07-118:11].

84. The sole methods Samserv used for monitoring process server conduct was to perform random “checks.” *See Jul. 19 Keshavarz Decl.* [Exhibit E, Mlotok Trns. 100:24-103:13].

85. These checks were performed sporadically and were not documented. *See Jul. 19 Keshavarz Decl.* [Exhibit E, Mlotok Trns. 100:24-103:13].

86. Samserv did not check to ensure that Samserv process servers were reporting realistic travel times between service locations. *See Jul. 19 Keshavarz Decl.* [Exhibit E, Mlotok Trns. 100:24-103:13]

87. There is no “account number” on any of the documents filed by LRC in the state court collection case. *See Jul. 19 Keshavarz Decl.* [Exhibit TT, default application with affidavit of merit; Exhibit OO, summons and complaint in Guzman collection suit].

Dated: Brooklyn, New York  
August 9, 2017

Respectfully submitted,  
/s/

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